



Region Three Montana Fish, Wildlife & Parks
1400 South 19th Ave
Bozeman, MT 59718
December 6, 2010
Decision Notice for

Upper Madison River
PROPOSED EXCHANGE OF PUBLIC ACCESS EASEMENTS
Draft Environmental Assessment

Proposed Action

Montana Fish, Wildlife & Parks (FWP) proposed an exchange of access easements for the purpose of ensuring permanent public recreational access to a section of the upper Madison River. FWP would acknowledge that an existing road easement is no longer in effect and in exchange, certain landowners would grant a permanent easement for non-motorized recreational access along a portion of the Madison River. For convenience, this transaction is referred to herein as an exchange of easements. The new easement to be acquired by FWP would actually be multiple easements because it would be granted by multiple landowners.

Montana Environmental Policy Act

Montana Fish, Wildlife & Parks is required by the Montana Environmental Policy Act (MEPA) to assess significant potential impacts of a proposed action to the human and physical environment. In compliance with MEPA, an Environmental Assessment (EA) was completed for the proposed project by FWP and released for public comment on November 5, 2010.

Public comments on the proposed project were taken from November 5, 2010 through December 5, 2010. The EA was mailed to 106 organizations and individuals. In addition, the EA was posted on the FWP website and a news release was distributed to statewide media outlets.

Summary of Public Comment

FWP received three (3) comment e-mail messages on the proposed action. Two comments supported the proposal, and one comment posed a question regarding the proposal.

Comments supporting the proposed project: two (2) total.

“I write in support of the proposed exchange of public access easements on the Upper Madison River north of Palisades Recreation Area. As a 40 year user of the Upper Madison River, a 34 year Montana outfitter, and a member of the original Montana Coalition for Stream Access that fought to protect access to Montana’s rivers and streams, I believe the proposed exchange is an equitable solution that protects river bank

access for sportsmen and addresses the concerns of nearby landowners. I would add, for the record, that this exchange in no way impacts or re-defines sportsman's access to the Upper Madison River or any other Montana river or stream that is protected by Montana's Constitution which has been upheld in the US Supreme Court and is defined as recreational use of the water and the streambed up to the ordinary high water mark. Unfortunately, I feel far too many landowners, attorneys, and realtors are not aware of or do not understand Montana's stream access laws, and this lack of awareness appears, in my opinion, to be growing as new landowners buy land along Montana's rivers and streams. I would urge that FWP utilize opportunities such as this one to reiterate our stream access laws."

FWP Response: So noted.

"I support Alternative B, to exchange the existing access easement with the new access easement. I don't believe that, "just because the road was never built" that the easement is no longer in force. However I do believe that being good neighbors is very important, and seeing no loss of access to the Madison River I do support Alternative B."

FWP Response: So noted.

Comment posing a question regarding the proposed action: one (1) total.

"I usually don't get involved in this stuff but cursory reading of the proposed "relinquishment" of a road sounds like a net LOSS of access to the Madison, especially to mobility impaired sportsman/recreationists. Is it then that only hikers & horseman get use it? Are the rich nouveau Montanans flexing there plutocratic muscles?"

FWP Response: Just to be clear, there is no road. FWP was given an easement for a motorized access but it was never developed and FWP never had plans (or funding) to develop a road.

Decision

Based on the Environmental Assessment, public comment, and FWP evaluation, it is my decision to proceed with preferred alternative B, as described in the Upper Madison River Proposed Exchange of Public Access Agreements Draft Environmental Assessment. In the preferred alternative, FWP proposes an exchange of access easements for the purpose of ensuring permanent public recreational access to a section of the upper Madison River. This course of action will be recommended to the Fish, Wildlife & Parks Commission at their January 13 commission meeting.



Gerald Walker

Regional Parks Manager
